

CEMETERY BOARD MEETING

MINUTES

June 3, 2009

The Cemetery Board met on June 3, 2009, at the Department of Professional and Occupational Regulation (DPOR), 9960 Mayland Drive, Richmond, Virginia. The following members were present:

Kenneth R. Bell, Chairman
Mike Kirsch
David Gilliam
Isabel Berney
Delores King

Board members not present: Randy Gleason

DPOR staff present for all or part of the meeting included:

Christine Martine, Executive Director
Bonnie Rhea Adams, Director of Complaint
Analysis, & Resolution
Herb Nichols, Investigator
Victoria Traylor, Legal Analyst
Emily Trent, Administrative Assistant

Elizabeth Peay, from the Office of the Attorney General was present.

Chairman Bell called the meeting to order at 9:00 AM

Call to Order

Michael Doherty, Virginia Cemetery Association member, updated the Board on proposed Cemetery Regulations handled by the Department of Health Professions, Board of Funeral Directors and Embalmers. Mr. Doherty also spoke about how realized capital gains are viewed by the Cemetery Board. No action was taken by the Board.

Public Comment

Tyler Tetrick addressed the Board concerning perpetual care trust funds. No action was taken by the Board.

David C. DuBose, addressed the Board concerning perpetual care trust funds. No action was taken by the Board.

A motion was made by Mr. Kirsch and seconded by Ms. Berney to approve the agenda. The motion passed unanimously. Members voting

Agenda

“Yes” were Bell, Berney, Gilliam, King and Kirsch.

A motion was made by Mr. Kirsch and seconded by Ms. Berney to approve the following minutes: January 20, 2009, Board Meeting; and April 9, 2009, Informal Fact-Finding Conference. The motion passed unanimously. Members voting “Yes” were Bell, Berney, Gilliam, King and Kirsch.

Minutes

In the matter of **File Number 2009-02592, Maranatha Ltd, t/a Merchants Hope Memorial Gardens**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Mr. Bell and seconded by Ms. Berney to accept the Consent Order wherein Maranatha Ltd. admits to (2 *violations*) of §54.1-2319 (Count 1) of the *Code of Virginia*, and a violation of §54.1-2325 (Count 2) of the *Code of Virginia*, and agrees to no monetary penalty for the violations contained in Counts 1 and 2, as well as \$150.00 in Board costs for a total of \$150.00. In addition, for Count 1, Maranatha Ltd. agrees to deposit \$80.00 into the perpetual care trust fund and provide the Board with proof of the deposit within (30) days of entry of the Order. The motion passed unanimously. Members voting “Yes” were Bell, Berney, Gilliam, King and Kirsch.

**File Number 2009-02592,
Maranatha Ltd, t/a
Merchants Hope
Memorial Gardens**

In the matter of **File Number 2009-00875, SCI Virginia Funeral Services, Inc.**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Ms. King and seconded by Mr. Kirsch to accept the Consent Order wherein SCI Virginia Funeral Services, Inc. admits to a violation of 18 VAC 47-20-190.13 of the Board’s 2000 Regulations (Count 1), and agrees to a monetary penalty of \$250.00 for the violation contained in Count 1, and agrees to pay \$150.00 in Board costs for a total of \$400.00. In addition, for violation of Count 1, SCI Virginia Funeral Services, Inc. agrees to remove the current marker and hold it until an agreement is reached between the decedent’s children and his widow or until the court issues an order resolving the matter with the marker. If it is determined that the current marker is acceptable, SCI Virginia Funeral Services, Inc. will reinstall the marker at no charge to the family. Further, if the resolution requires changing the current marker, SCI Virginia Funeral Services, Inc. agrees to provide a new marker and to place the marker, at no charge to the family. The motion passed unanimously. Members voting “Yes” were Bell, Gilliam, Gleason, King, and Kirsch.

**File Number 2009-00875,
SCI Virginia Funeral
Services, Inc.**

In the matter of **File Number 2009-01476, Shenandoah Memorial Park Subsidiary, Inc.**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Mr. Bell and seconded by Mr. Gilliam to accept the Consent Order wherein Shenandoah Memorial Park

**File Number 2009-01476,
Shenandoah Memorial
Park Subsidiary, Inc.**

Subsidiary, Inc. admits to violation of 18 VAC 47-20-190.13 of the Board's 2000 Regulations (Count 1), and agrees to a monetary penalty of \$500.00 for the violation contained in Count 1, and agrees to pay \$150.00 in Board costs for a total of \$650.00. In addition, the Board will waive the imposition of the \$500.00 monetary penalty for Count 1, provided Shenandoah Memorial Park Subsidiary Inc. strikes the words "...or any other matters relating to goods or services purchased from seller" from the arbitration clause in the contract Janet S. Day signed on May 23, 2008, and provides Janet S. Dye with a revised copy of the contract within 30 days of the entry of the Order. Further, Shenandoah Memorial Park Subsidiary Inc. agrees to provide the Board with a copy of the revised contract within 30 days of the entry of the Order. If Shenandoah Memorial Park Subsidiary Inc. fails to strike the words "...or any other matters relating to goods or services purchased from seller" from the arbitration clause in the contract, then the full \$500.00 monetary penalty will be automatically imposed. The motion passed by majority vote. Members voting "Yes" were Bell, Gilliam, and King. Member voting "No" was Berney.

Due to a possible conflict of interest, Mr. Kirsch did not vote or participate in discussion in this matter.

In the matter of **File Number 2009-01947, Mountain View Cemetery of Ridgeway, Inc.**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Mr. Kirsch and seconded by Mr. Gilliam to accept the Consent Order wherein Mountain View Cemetery of Ridgeway, Inc. admits to violation of 18 VAC 47-20-190.12 of the Board's 2000 Regulations (Count 1), and agrees to a monetary penalty of \$500.00 for the violation contained in Count 1, and agrees to pay \$150.00 in Board costs for a total of \$650.00. The motion passed unanimously. Members voting "Yes" were Bell, Gilliam, Gleason, King, and Kirsch.

**File Number 2009-01947,
Mountain View Cemetery
of Ridgeway, Inc.**

The Board recessed from 9:25 a.m. – 9:30 a.m.

Break

In the matter of **File Number 2009-02993, Angela Dudley**, the Board reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding officer. Ms. Dudley, the applicant, was present and addressed the Board. A motion was made by Mr. Bell and seconded by Ms. Berney to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia*, approve Ms. Dudley's application for a cemetery sales personnel registration. The motion passed unanimously. Members voting "Yes" were Bell, Berney,

**File Number 2009-02993,
Angela Dudley**

Gilliam, King, and Kirsch.

In the matter of **File Number 2009-02994, Angela Dudley**, the Board reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding officer. Ms. Dudley, the applicant, was present and addressed the Board. A motion was made by Mr. Bell and seconded by Ms. Berney to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia*, approve Ms. Dudley's application for a cemetery sales personnel registration. The motion passed unanimously. Members voting "Yes" were Bell, Berney, Gilliam, King, and Kirsch.

**File Number 2009-02994,
Angela Dudley**

The Board formed a new committee to determine if certain license applications indicating criminal history can be processed by staff without Board approval. Mr. Gilliam and Mr. Kirsch agreed to serve on the committee.

New Business

The meeting adjourned at 9:47 A.M.

Adjourn

Kenneth Bell, Chairman

Jay DeBoer, Secretary